

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

THOMAS R. JONES	:	CIVIL NO. 1:CV-00-2220
Petitioner,	:	
	:	(Judge Kane)
v.	:	
	:	
JAKE MENDEZ, Warden, U.S.	:	
PAROLE COMMISSION,	:	
Respondents	:	

ORDER

On March 17, 2003, Petitioner Thomas R. Jones filed a “Motion to the United States District for the Middle District of Pennsylvania Seeking Relief from Judgment Rendered by the Court Pursuant to Civil Rule 60(b).” (Doc. 19). Therein, the Petitioner asserts that he is entitled to relief based upon newly discovered evidence and, error on the part of the district court in failing to address a due process argument and misinterpreting his double counting argument, both of which were raised in his habeas corpus petition.

Fed.R.Civ.P. Rule 60 provides for relief from a judgment or order in the case of mistake, inadvertence, surprise, or excusable neglect as well as in the instance of newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b), *inter alia*. Fed.R.Civ.P. Rule 60(b)(1) and (2). However “[t]he motion shall be made within a reasonable time, and for reasons (1), (2), and (3), not more than one year after the judgment, order, or proceeding was entered or taken.” Rule 60(b). The Memorandum and Order denying the habeas corpus petition was entered on July 18, 2001. (Doc. 8). The Petitioner’s Rule 60(b) motion, which seeks relief for the reasons stated in Rule 60(b)(1) and (2)

was not filed until March 17, 2003, well after the one year limitation placed on such a motion. The motion will therefore be denied as untimely.

Further, the denial of the Petitioner's Rule 60(b) motion renders the Petitioner's "Motion to the United States District Court Requesting Stay of Mandate Pending the Court's Judgement of Rule 60(b) motion filed by the Petitioner" which was filed on April 7, 2003, moot.

NOW, THEREFORE, THIS 16th DAY OF May, 2003, IT IS HEREBY ORDERED THAT the Petitioner's "Motion to the United States District for the Middle District of Pennsylvania Seeking Relief from Judgment Rendered by the Court Pursuant to Civil Rule 60(b)" (Doc. 19) is DENIED as untimely and the Petitioner's "Motion to the United States District Court Requesting Stay of Mandate Pending the Court's Judgement of Rule 60(b) motion filed by the Petitioner" (Doc. 20) is DENIED moot.

s/ Yvette Kane
YVETTE KANE
United States District Judge